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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Carl Herman Haken

Examiner: Mylinh T. Tran

Serial Number: 09/519,242

Art Unit: 2174

Filed: March 6, 2000

Title: Graphical Interface Control System

APPLICANTS REPLY BRIEF ON APPEAL

Commissioner for Patents
Washington, DC

Sir:

Applicant submits this reply brief in response to the Examiner's answer mailed
Nov 2, 2004.

I. Errors and Misstatements in the Examiner's Answer

Applicant's Brief does, in fact, contain the required statement identifying related appeals
and interferences. The Examiner's Answer twice states that Applicant's Brief does not

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on November 7 2004

Jack E. Haken



contain a statement identifying related appeals and interferences. The required statement in fact appears at the bottom of page 1 of the main Brief on Appeal. There are no related appeals and interferences.

The Examiner's Answer incorrectly represents that certain prior art is of record in this case.

Section (9) of the Examiner's Answer lists US Patent 6,252,544 (Hoffberg) and the document cited as 2001/004591 (Bunker) as Prior Art of Record in this case. The document are cited and applied for the first time in the Examiner's Answer. They were not cited or applied during prosecution before the Examiner. They are not of record in this appeal. Notwithstanding this error, Applicant hereby his waives right to have prosecution of this case reopened for the purpose of introducing these document into the record at this time and urges the Board to consider this appeal in a most expeditious manner. However, if the Board chooses to admit the new art to this proceeding, Applicant respectfully requests that claim 9 and 10, which have now for the first time been separately rejected over different parts of the Bunker publication, be grouped for consideration separately from each other and from the other rejected claims in this appeal.

II Argument

With respect to claims grouped with Claim 1, the Examiner seems to be arguing that means for determining the relative direction between two display locations is inherent in the device of the Shimizu patent because, in the Examiner's opinion, the Shimizu

invention could not function without such means. Inherency, to be applicable, would require that a person skilled in the art should unambiguously recognize that the described feature was a necessary part of the device described in the reference.

Applicant respectfully believes that the Examiner is mistaken as to the operation of the devices described in the Shimizu patent;(i.e. the Shimizu device does not describe a system wherein a cursor appears to move from one screen to another). There is also no reason to assume that the motion or appearance of Shimizu's cursors would change, in any way, if the relative positions of the display screens depicted in Figure 9 were to be changed. However, even if the Board agrees that the Shimizu device functions as described by the Examiner, there is no basis, other than hindsight, to assume that the undescribed circuitry or functionality, would be the means for determining relative direction claim by Applicant. For example, Shimizu could simply require that the two screens be placed, a priori, in a known physical relationship and then implement the putative cursor moves without ever making an actual determination of relative positions.

The Examiner, for the first time in her answer, cites the US patent 6,252, 544 (Hoffberg) as describing a docking cradle. Hoffberg appears to describe a mobile communication device with GPS functionality. The Examiner states:

“The reference teaches a PDA (personal digital assistant) which (sic) its cover is the docking cradle.”

Applicant respectfully submits that the reference does not teach, illustrate, describe or suggest a docking cradle. The only references to a PDA which Applicant can find in the Hoffberg patent are in the last paragraph of column 32 and the following two paragraphs

in column 33. Therein the PDA is described as “a standard personal digital assistant”.

There is no mention of a cover, a docking cradle, or any functionality for determining if the PDA is in a docking cradle. The undersigned attorney has made a computer word search of the digitized text of the Hoffberg patent (as provided on the PTO Internet site). The search did not find any instances of use of the words “cover” or “cradle” in the Hoffberg patent. Hoffberg does not teach the structure that the Examiner asserts it does. Furthermore, even if Hoffberg did teach a docking cradle in a PDA, it does not describe or suggest that the docking cradle could be used to determine the relative positions of two display locations as required by claims 7 and 8. Therefore, Applicant submits that the Examiner’s citation of Hoffberg at this time is little more than window dressing in an improper attempt to buttress an improper rejection.

The Examiner further newly cites Patent Publication US 2001/0045914 (Bunker) as describing “a directional antenna” [lines 0054 –0069] and “a directional infrared array” [lines 0005 – 0006].

Applicant admits that the Bunker reference purports to describe a directional antenna which is apparently used improve signal strength in point to multipoint communication networks. However, Bunker does not teach or suggest using the antenna for direction finding as required by claim 10. The particular lines of Bunker which the Examiner cites to support her rejection of claim 8 do not even describe the directional characteristics of the antenna, much less how it could be used to meet the functional limitations of claim 8.

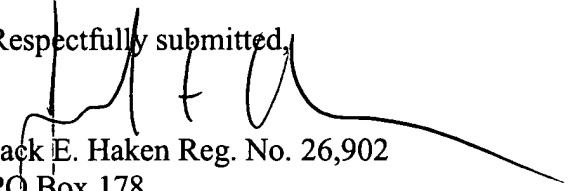
The Examiners assertion notwithstanding, Bunker does not describe a directional infrared array as required by claim 10. Lines 0005 and 0006 cited by the examiner make

clear that the device is intended for use in the radio spectrum, which is altogether consistent with the use of the helical antenna elements describe elsewhere in the publication.

Neither new reference describes or suggests the functionality required by the rejected claims and the Examiner has not even tried to present a prime facie case that they do so.

The rejections should be reversed and the patent application allowed.

Respectfully submitted,



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